

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GABRIEL SANTACRUZ,

Case No. 2:20-cv-00847-RFB-BNW

Petitioner,

ORDER

v.

JERRY HOWELL, et. al,

Respondents.

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Gabriel Santacruz, a Nevada prisoner. Santacruz initiated this action on May 8, 2020, by filing an application to proceed *in forma pauperis*, along with his habeas corpus petition, a motion to stay, and a motion for appointment of counsel. ECF No. 1. The court denied the *in forma pauperis* application. ECF Nos. 3/6. On June 23, 2020, Santacruz paid the filing fee necessary to commence this action. ECF No. 7.

The Court has reviewed Santacruz's petition, pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and finds that it merits service upon the respondents. Respondents will not be required to respond to the petition at this time, however, as the Court anticipates that, with counsel, Santacruz will likely file an amended petition.

The Court will grant Santacruz's motion for appointment of counsel. "Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances of a particular case indicate that appointed counsel is necessary to prevent due

1 process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*,
2 431 F.2d 638, 640 (9th Cir. 1970) (per curiam). The Court may, however, appoint counsel at any
3 stage of the proceedings “if the interests of justice so require.” *See* 18 U.S.C. § 3006A; *see also*
4 Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. It appears likely that there
5 will be relatively complex issues to be addressed at the outset of this case, and it appears that
6 Santacruz may not be able to adequately litigate those issues without counsel. Therefore, the Court
7 finds that appointment of counsel is in the interests of justice.

8 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall file, separately, the
9 petition for writ of habeas corpus (ECF No. 1-1), motion to stay (ECF No. 1-2), and motion for
10 appointment of counsel (ECF No. 1-3) and ELECTRONICALLY SERVE the petition and a copy
11 of this order on the respondents.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court shall add Aaron D. Ford,
13 Attorney General of the State of Nevada, as counsel for Respondents.

14 **IT IS FURTHER ORDERED** that Respondents shall have twenty days from the date on
15 which the petition is served upon them to appear in this action. Respondents will not be required
16 to respond to the habeas petition at this time.

17 **IT IS FURTHER ORDERED** that Petitioner’s motion for appointment of counsel is
18 GRANTED. The Federal Public Defender for the District of Nevada (FPD) is appointed to
19 represent petitioner. If the FPD is unable to represent the petitioner, due to a conflict of interest or
20 other reason, then alternate counsel will be appointed. In either case, counsel will represent the
21 petitioner in all federal-court proceedings relating to this matter, unless allowed to withdraw.

22 **IT IS FURTHER ORDERED** that the Clerk shall electronically serve upon the FPD a
23 copy of this order, together with a copy of the petition for writ of habeas corpus.

24 **IT IS FURTHER ORDERED** that the FPD shall have 20 days from the date of entry of
25 this order to file a notice of appearance, or to indicate to the court its inability to represent the
26 petitioner in this case.

IT IS FURTHER ORDERED that Petitioner's motion to stay is DENIED without prejudice.


HON. RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE